

TIMOTHY R. FISCHER
Murphy, Bantz & Bury, P.S.
818 W. Riverside Ave., Suite 631
Spokane, Washington 99201
(509) 838-4458
Attorneys for Debtors in Possession

Honorable Frank L. Kurtz

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In Re:
EUGENE BROWER and
CAROLYN BROWER,
Debtors.

No. 11-00617-PCW11

**FINDINGS OF FACT ON
CONFIRMATION OF SECOND
AMENDED PLAN**

[PROPOSED]

THIS MATTER having come before the Court on August 23, 2011, on confirmation of Debtors' Second Amended Plan filed herein, the proposed Second Amended Plan of Reorganization having been filed herein and having been transmitted to the Master Mailing List and all previously objecting parties, after proper notice, and the parties having resolved remaining objections, the objecting parties having been represented by counsel, and the Court having been fully advised, hereby finds:

1. Issues between the Debtors and Objecting Party, the Department of Treasury (I.R.S.), have been resolved by the Second Amended Plan, and all Objecting Parties have withdrawn their objection, and approved the changes.

1 2. The applicable provisions of Title 11 U.S.C. have been complied
2 with by the Plan and the proponents; the Plan has been proposed in good faith
3 and not by any means forbidden by law.
4

5 3. The Plan provides that each holder of a claim or interest has
6 accepted the Plan or will receive or retain under the Plan property of a value, as
7 of the effective date of the Plan, that is not less than the amount that such holder
8 would receive or retain if the Debtors were liquidated under Chapter 7 of the
9 Code on such date;
10

11 4. Any payment made or to be made by the proponents, by the
12 debtors, or by a person issuing securities or acquiring property under the plan,
13 for services or for costs and expenses in or in connection with the case, or in
14 connection with the plan and incident to the case, has been approved by, or is
15 subject to the approval of, the court as reasonable.
16

17 5. The proponents of the plan has disclosed the identity and affiliations
18 of any individual proposed to serve, after confirmation of the plan, as a director,
19 officer, or voting trustee of the debtor, an affiliate of the debtor participating in a
20 joint plan with the debtor, or a successor to the debtor under the plan; and the
21 appointment to, or continuance in, such office of such individual, is consistent
22 with the interests of creditors and equity security holders and with public policy.
23

24 6. With respect to each impaired class of claims or interests, each
25 holder of a claim or interest of such class has accepted the plan; or will receive
26 or retain under the plan on account of such claim or interest property of a value,
27 as of the effective date of the plan, that is not less than the amount that such
28 FINDINGS OF FACT ON CONFIRMATION
29 OF SECOND AMENDED PLAN [PROPOSED] - 2

Murphy, Bantz & Bury, P.S.
818 W. Riverside Ave., Suite 631
Spokane, WA 99201
(509) 838-4458

1 holder would so receive or retain if the debtors were liquidated under Chapter 7
2 of Title 11 U.S.C. on such date.

3

4 7. Except to the extent that the holder of a particular claim has agreed
5 to a different treatment of such claim, the plan provides that, with respect to a
6 claim of a kind specified in 11 U.S.C. § 507(a)(2) or § 507(a)(3), on the
7 effective date of the plan, the holder of such claim will receive on account of
8 such claim cash equal to the allowed amount of such claim; with respect to a
9 class of claims of a kind specified in 11 U.S.C. §§ 507(a)(1), (a)(4) (wages),
10 (a)(5) (employee benefit plan contribution), (a)(6) (agriculture and fisheries), or
11 (a)(7) (rental deposits), each holder of a claim of such class will receive, if such
12 class has accepted the plan, deferred cash payments of a value, as of the
13 effective date of the plan, equal to the allowed amount of such claim;

14

15

16

17 8. With respect to a claim of a kind specified in 11 U.S.C. § 507(a)(8)
18 (taxes), the holder of such claim will receive on account of such claim regular
19 installment payments in cash-of a total value, as of the effective date of the plan,
20 equal to the allowed amount of such claim; over a period ending not later than 5
21 years after the date of the order for relief under 11 U.S.C. §§ 301, 302, or 303;
22 and in a manner not less favorable than the most favored non-priority unsecured
23 claim provided for by the plan (other than cash payments made to a class of
24 creditors under section 11 U.S.C. § 1122(b)).

25

26

27 9. With respect to a secured claim which would otherwise meet the
28 description of an unsecured claim of a governmental unit under 11 U.S.C.
29 section 507 (a)(8), but for the secured status of that claim, the holder of that

1 claim will receive on account of that claim, cash payments, in the same manner
2 and over the same period, as described in Paragraph 8, above.
3

4 10. At least one class of claims that is impaired under the plan has
5 accepted the plan, determined without including any acceptance of the plan by
6 any insider.
7

8 11. Confirmation of the plan is not likely to be followed by the
9 liquidation, or the need for further financial reorganization, of the debtors or any
10 successor to the debtors under the plan, unless such liquidation or reorganization
11 is proposed in the plan.
12

13 12. All U.S. Trustee fees payable under § 1930 of title 28, as
14 determined by the Court at the hearing on confirmation of the plan, have been
15 paid or the plan provides for the payment of all such fees on the effective date of
16 the plan.
17

18 13. With respect to a class of secured claims, the plan provides, that the
19 holders of such claims retain the liens securing such claims, whether the
20 property subject to such liens is retained by the debtor or transferred to another
21 entity, to the extent of the allowed amount of such claims; and that each holder
22 of a claim of such class receives on account of such claim deferred cash
23 payments totaling at least the allowed amount of such claim, of a value, as of the
24 effective date of the plan, of at least the value of such holder's interest in the
25 estate's interest in such property;
26

14. With respect to a class of secured claims the plan provides that each holder of a claim of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim; or the holder of any claim or interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or interest any property,

15. The plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan.

NOW THEREFORE, having made the above Findings, the Court hereby concludes:

1. The Second Amended Plan, including all Modifications and agreed revisions should be confirmed.


HONORABLE FRANK L. KURTZ

August 23, 2011

MURPHY, BANTZ & BURY, P.S.
/s/ Timothy R. Fischer

TIMOTHY R. FISCHER, WSBA No. 40075
Attorneys for Debtor-in-Possession